

**EFM Realty Corp. and 6555 Realty Corp. and
Service Employees International Union, Local
32E, AFL-CIO. Case AO-313**

May 13, 1994

ADVISORY OPINION

BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND COHEN

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on March 22, 1994, EFM Realty Corp. and 6555 Realty Corp. (the Employer) filed a petition for Advisory Opinion as to whether the Board would assert jurisdiction over its operations. In pertinent part, the petition alleges as follows:

1. A proceeding, Case No. SE-58679, is currently pending before the New York State Employment Relations Board in which the Union is seeking certification of a one-employer unit at 6555 Broadway, Bronx, New York (the building), a building managed by EFM Realty Corp.

2. The Employer, a partnership, maintains its principal place of business at 2207 Coney Island Avenue, Brooklyn, New York, and is engaged in real estate ownership and management. EFM Realty Corp. manages the building, a 70-unit residential apartment building with 15 garage spaces. At the building, the Employer supervises and directs the terms and conditions of employment, as well as the day-to-day activities of the single employee employed at the building. EFM Realty Corp. also formulates and implements all personnel policies applicable to that employee and maintains payroll records for and pays the one employee.

3. During the past year, the Employer had gross revenues in excess of \$1 million and purchased materials

and services in excess of \$50,000 directly from outside the State of New York.

4. The Employer is unaware whether the Union admits or denies the aforesaid commerce data and the New York State Employment Relations Board has not made any findings with respect thereto.

5. There are no representation or unfair labor practice proceedings involving the Employer pending before the Board.

Although all parties were served with a copy of the petition for Advisory Opinion, no response was filed.

Having duly considered the matter,¹ the Board is of the opinion that it would assert jurisdiction over the Employer. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential apartment buildings.² As the Employer alleges total annual income exceeding \$500,000, it is clear that the Employer satisfies the Board's discretionary standard. As the Employer further alleges that it annually purchases materials or services in value equal to or exceeding \$50,000 directly from outside the State of New York, the Employer also clearly satisfies the Board's statutory standard for asserting jurisdiction.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Employer.³

¹ The Board has delegated its authority in this proceeding to a three-member panel.

² See *Parkview Gardens*, 166 NLRB 697 (1967).

³ The Board's advisory opinion proceedings under Sec. 102.98(a) are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view whether the Board would certify the Union as representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.